

RESOLUTION NO. 17-0160

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING TELECOM PERMITS FOR THE CONSTRUCTION AND OPERATION OF A WIRELESS FACILITY LOCATED AT NORTH VALLEY DRIVE AND PACIFIC AVENUE

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Manhattan Beach Municipal Code (Municipal Code) Section 13.02.030, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (Applicant) submitted an application for the subject telecommunications facility at North Valley Drive and Pacific Avenue (Pacific Avenue Facility). Concurrently, the Applicant submitted 15 other applications for wireless telecommunications facilities at other locations in the City of Manhattan Beach.

SECTION 2. Pursuant to Municipal Code Chapter 13.02, the Pacific Avenue Facility, as a “non-standard facility,” is reviewed by the Director of Community Development and is subject to final review by the City Council. The Director conditionally approved the application. On October 17, 2017, two members of the City Council requested review of the Director’s decision.

SECTION 3. On November 16, 2017, the City Council conducted a public hearing to consider the application. The Council considered all evidence, both written and oral, presented during the public hearing. The Applicant’s representatives spoke in favor of the application. After providing an opportunity to all interested parties to speak, the Mayor provided an opportunity for rebuttal to the Applicant. The Applicant’s representatives responded to questions posed by the public and by Councilmembers.

SECTION 4. The record of the public hearing indicates the following:

A. The Pacific Avenue Facility is proposed in a residential district. It includes an antenna mounted to an existing arm of an existing wooden utility pole and existing equipment mounted on the pole. The proposed antenna would replace the Applicant’s existing wireless facilities on this utility pole, the existing equipment would remain.

B. Municipal Code Chapter 13.02.030 regulates the issuance of telecommunications permits in the public right-of-way. Pursuant to Municipal Code Section 13.02.100, the City must approve a telecommunications permit unless it makes the following findings:

1. That installation of the facility will have significant negative impacts to the extent that it substantially interferes with the use of other properties;

2. That a feasible alternative non-residential site is available for the proposed facility;

3. That denial of the proposed facility will not result in a competitive disadvantage to the applicant;

4. That the denial does not discriminate against the applicant in favor of similarly situated competitors; and

5. That the denial shall not preclude the applicant from proposing an alternate location for the facility.

C. Pursuant to Municipal Code Section 13.02.030.G, the City must impose specified mandatory conditions when approving a telecom permit and may impose additional conditions as appropriate.

D. Pursuant to Section 332(c)(7) of the federal Telecommunications Act, local governments retain their authority over decisions regarding the placement, construction, and modification of personal wireless service facilities.

E. At the public hearing, no residents testified in opposition to the Pacific Avenue Facility.

SECTION 5. Based upon substantial evidence in the record, including the evidence presented at the public hearing, the staff report and presentation, the attachments to the staff report, and all testimony at the public hearing, the City Council hereby finds:

A. The Pacific Avenue Facility does not satisfy the five conditions for denial under Municipal Code Section 3.02.100. The facility is located in a residential area where an alternative location on commercial property is not available in the area. The location of the Pacific Avenue Facility will minimize aesthetic impacts because it is immediately adjacent to North Valley Drive and the adjacent parkway. Further, the Pacific Avenue Facility would not increase the facilities located on this utility pole because it would replace the Applicant's existing, non-operative facilities on an existing arm and no new equipment or cabinets are proposed.

SECTION 6. The Pacific Avenue Facility is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) and 15303 (Class 3, New Construction of Small Structures). The Pacific Avenue Facility presents no unusual circumstances and there are no environmental resources of hazardous or critical concern.

SECTION 7. The City Council's decision is based upon each independent and separate grounds stated herein.

SECTION 8. The City Council hereby approves the telecom permit for the Valley Drive Facility, subject to the conditions set forth in Exhibit A.

SECTION 9. The City Clerk shall mail by first class mail, postage prepaid, a certified copy of this Resolution and a copy of the affidavit or certificate of mailing to the Applicant and any other persons or entities requesting notice of the decision.

SECTION 10. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED December 5, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

AMY HOWORTH
Mayor

ATTEST:

LIZA TAMURA
City Clerk